



WISCONSIN

**DEPARTMENT OF WORKFORCE DEVELOPMENT**  
Division of Economic Support  
Bureau of Welfare Initiatives

**TO: Economic Support Supervisors  
Economic Support Lead Workers  
Training Staff  
FSET Administrative & Provider Agencies  
Child Care Coordinators  
W-2 Agencies**

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**BWSP OPERATIONS MEMO**

**No.:** 00-18

**File:** 2765.2

**Date:** 03/17/2000

**Non W-2** ☒ **W-2** ☐ **CC** ☐

**PRIORITY:** High

**SUBJECT: ESTATE RECOVERY PROGRAM CHANGES**

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**CROSS REFERENCE:** Income Maintenance Manual, Chapter II, Part A, 3.3.0  
1999 Wisconsin Act 9

**EFFECTIVE DATE:** Different effective dates apply to various changes described in this memo. Please take note of them and to which changes they apply.

**PURPOSE**

This memo describes changes to the Medical Assistance (MA) Estate Recovery Program (ERP) as a result of the 1999–2001 State budget (1999 Wisconsin Act 9), signed into law on Wednesday, October 27, 1999. Local agency eligibility workers will be able to inform new applicants and recipients about the changes in the law. Some of the changes are effective immediately and others will not be effective until future dates. A notice will be issued to the affected recipients and they may direct their questions to their local Economic Support agencies.

**BACKGROUND**

Through ERP, the state seeks repayment of certain home health and long-term care MA benefits provided to recipients. Recovery is made from the estates of recipients and in limited situations, from liens placed on homes. The recovered funds are returned to the MA Program. Several specific changes to the current program were authorized with the passage of the biennial budget bill. These changes will provide increased recoveries, improve administrative efficiencies and allow more equitable implementation of the estate recovery provision among MA recipients.

**RECOVERY OF PERSONAL CARE SERVICES**

Personal Care services provided to MA recipients 55 and older on or after April 1, 2000, will be a recoverable service in the same manner that current home health services such as home health aide, home health nursing, private duty nursing and home health therapies and speech pathology are recoverable. Similar personal care services paid by the home and community-based waiver programs (supportive home care) have been recovered from estates since 7/1/95. This change provides equitable recovery by ensuring those similar services, whether paid for by the MA card or a home and community-based waiver program, are recovered.

### ***LIENS ON PERSONS LIVING IN AN INPATIENT HOSPITAL***

Effective 4/1/00 the state may obtain a lien on the home of an MA recipient residing in an inpatient hospital, who is required to contribute to the cost of care, and who cannot reasonably be expected to be discharged from the hospital to return home to live. However, because no contribution to the cost of care is determined for these hospitalized individuals per MA Handbook, App. 10.6.0, a lien will not be placed on the home of an individual institutionalized in a hospital.

Previously, DHFS was limited to placing liens on the homes of only those recipients living in nursing homes. However, some recipients due to the nature of their illness, must be institutionalized in an inpatient hospital rather than a nursing home. This change was intended to ensure that there is equitable treatment of institutionalized individuals who are not expected to return home to live, regardless of whether the institutionalized setting is a nursing home or an inpatient hospital.

### ***RECOVERY OF ALL RECOVERABLE BENEFITS FROM AN MA LIEN***

Effective April 1, 2000 all services received on or after that date which were recoverable through an estate will be recoverable through a lien. Those services are: home health aide, home health nursing, private duty nursing, home health therapies and speech pathology, personal care services and all services received while institutionalized in an inpatient hospital. Additionally, for all community based waiver participants: all waiver services, prescription drugs, and costs associated with inpatient hospital stays are recoverable. Prior to this change, only costs incurred while living in a nursing home on or after October 1, 1991 were recoverable through a lien.

Remember, MA liens are not filed against homes of recipients living in the community. Only certain recipients who are institutionalized in a nursing home or inpatient hospital, and who are not reasonably expected to return home, would have a lien placed on their home.

### ***PERSONAL PROPERTY EXEMPTED FROM ESTATE RECOVERY***

Effective 10/29/99, the personal property that may be exempted by the state from estate recovery claims was increased from \$3,000 to \$5,000. This provision allows heirs and beneficiaries to retain certain personal effects of the deceased. The change adjusts the exemption levels to be consistent with those allowed under state probate laws and will allow heirs to keep more "heirloom" type items.

### ***NOTICE OF INTENT TO FILE A LIEN***

Due to the changes in the statutes, form DES-2339, Notice of Intent to File a Lien, required revision. The new form is scheduled to be available in the Form Center by 3/31/00.

As of 4/1/00, please discard all previous unused copies of this Notice and use ONLY the new form. A copy of the new form is attached. Until you obtain an updated supply, please use a copy of this form.

1. Send a copy to the Estate Recovery Program with the Disclosure Sheet at the address on the form
2. Keep a copy of your completed form in the case file.

Please note the changes that have been incorporated into the new form. It is important to identify the address this notice was mailed to: the recipient's or the representative's. The "Mailed To" address and "Mail Date" will support the notification requirements for Fair Hearing purposes. Please be conscious of the "Mail Date" as this must be the date the Notice is mailed which then begins the 45-day clock for a recipient or representative to file a request for a hearing. The "Worker Name" should be that of the worker who issued the Notice. Please refer to the Income Maintenance Manual, Chapter II, Part A, 3.3.0 for more detailed procedural requirements for the *Notice of Intent to File a Lien*.

### **TARGETED RECIPIENT NOTIFICATION OF CHANGES**

In March a notice of the changes will be mailed to each MA recipient 54 ½ years of age or older and to recipients who live in a nursing home. A copy of this notice is attached for your information. Please include a copy of this attachment with each Estate Recovery brochure you provide until your current supply of brochures is depleted. *Wisconsin's Medicaid Estate Recovery Program, Most Commonly Asked Questions & Answers*, brochure has been updated and will be available from the Form Center in the near future. The revised brochure information may be viewed or printed from the DHFS Internet site at:

[[www.dhfs.state.wi.us/medicaid/recpubs/estate.htm](http://www.dhfs.state.wi.us/medicaid/recpubs/estate.htm)]

### **CONTACT**

DES CARES & Policy Call Center	Email:	<a href="mailto:carpolcc@dwd.state.wi.us">carpolcc@dwd.state.wi.us</a>
	Telephone:	(608) 261-6317 (Option #1)
	Fax:	(608) 261-6968

Note: Email contacts are preferred. Thank you.